

3.1.1.3.f The Recreational Marijuana Overlay District

3.2.8 Recreational Marijuana Overlay District

The Recreational Marijuana Overlay District (herein RMOD) is hereby established as an Overlay District including the entire Town of Egremont.

5.7 RECREATIONAL MARIJUANA ESTABLISHMENTS

5.7.1 Establishment

The Recreation Marijuana Overlay District (herein RMOD) is hereby established as an Overlay District including the entire Town of Egremont.

5.7.2 Purpose

The purpose of this section is to safeguard the Town's built and natural environments by permitting compliance with state law in a manner consistent with community and neighborhood concerns, while also ensuring that those entities permitted to operate a licensed ME comply with the relevant regulations promulgated by the Cannabis Control Commission (CCC)

5.7.3 Relation to other districts

The RMOD is an overlay district mapped over other districts. It modifies and, where is inconsistency, supersedes the regulations of such other districts. Except as so modified or superseded, the regulation of the underlying districts remain in effect.

5.7.4 Applicability

5.7.4.1 No Recreational Marijuana Establishment shall be established in the Town of Egremont except in compliance with the provision of this section 5.7

5.7.5 Definitions

Where not expressly defined in this Bylaw, terms used in Bylaw shall be interpreted as defined in Massachusetts General Laws Chapter _____, Section _____, and the regulations of the Cannabis Control Commission, _____ CMR _____, and otherwise by their plain language.

Canopy: An area to be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that contain mature plants at any point in time, including all the space(s) within the boundaries.

Marijuana Products: Products that are composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Marijuana Establishment: Any business operated under one of the ten license types below.

Indoor Cultivation: The cultivation of cannabis within a permanent structure using exclusively artificial light.

Outdoor Cultivation: The cultivation of cannabis without the use of artificial light.

The Ten Marijuana Establishments licenses are:

- (1) **Marijuana Cultivator**: May Cultivate (indoor and/or outdoor), Process, Package, transfer and deliver products to ME's, but not to consumers. Cultivators may request a tier from 1-11. The following options are available, but no licensee may have a total canopy of more than 100,000 square feet which is approximately 2.3 acres, the largest grow space allowed by the Commonwealth. The canopy does not have to be contiguous.

For approximate frame of reference: Tier 2=1/4 acre Tier 6 =1 acre Tier 11=2.3 acre

Tier 1: up to 5,000 SF	Tier 7: 50,001 to 60,000 SF
Tier 2: 5001 to 10,000 SF	Tier 8: 60,001-70,000 SF
Tier 3: 10,001 to 20,000 SF	Tier 9: 70,001-80,000 SF
Tier 4: 20,001-30,000 SF	Tier 10: 80,001-90,000 SF
Tier 5: 30,001-40,000 SF	Tier 11: Tier 90,001-100,000 SF*
Tier 6: 40,001-50,000 SF	*(maximum allowed in MA)

- (2) **Craft Cooperative**: A type of Cultivator(s) which may cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products and to deliver marijuana to ME's but not to consumers. The cooperative cannot, in the aggregate, have a canopy greater than a tier 11. The cooperative is limited to 3 product manufacturing locations and must operate in accordance with the 7 cooperative principles published by the International Cooperative Alliance. In addition Craft Cooperatives are formed as an LLC or partnership by MA residents, have unlimited locations for cultivation (up to tier 11), and sell wholesale to a retailer.
- (3) **Marijuana Product Manufacturer**: Authorized to obtain, manufacture, process and package marijuana and marijuana products, to deliver to MEs and to transfer to other MEs but not to consumers.
- (4) **Marijuana Retailer (MR)**: Authorized to purchase and deliver marijuana and marijuana products from MEs and to sell or otherwise transfer to MEs and to consumers 21 years of age or older. The total area of MR shall not exceed 1500 square feet.
- (5) **Marijuana Transporter**: May only transport marijuana or marijuana products when such transportation is not already authorized under a ME license (such as manufacturer, cultivator, retailer, craft cooperative and microbusiness). This license permits for a third party transporter defined as: an entity registered to do business in MA, does not hold another ME license and is not registered as an MTC. Lastly, this license type also refers to an existing license transporter (manufacturer, cultivator, retailer, craft cooperative and microbusiness) who wishes to contract with other MEs to transport their marijuana and marijuana products to other MEs. Transporters only transport to businesses, not consumers.
- (6) **Marijuana Research Facility**: An academic institution, non-profit or domestic corporation or entity authorized to do business in MA. A research facility may cultivate and purchase marijuana for research purposes only. It may not sell marijuana it has cultivated. On site consumption is permitted for testing purposes.
- (7) **Independent Testing laboratory**: A highly accredited lab that is licensed to conduct tests in compliance with requirements of the Department of Public Health on all cannabis and cannabis products sold to assure their consistency and quality. Every marijuana product to be sold must be tested before it goes on the market. Labs analyze products for CBD and THC content, pesticides, terpenes, bacteria, fungi and heavy metals among other substances. The Independent Testing Lab may not hold any other ME license.

- (8) **Microbusiness**: Small scale, Tier 1, cultivator and/or Product Manufacturer limited to purchase 2,000 lbs of marijuana from other ME's in one year. They may not hold a stake in any other ME. A majority of owners must be MA residents for no less than 12 months.
- (9) **Delivery Only Operator License**: May purchase marijuana products wholesale from cultivators and manufacturers, label these products, warehouse, sell and deliver to consumers' residences. The CCC prohibits delivery to dormitories and other university housing, commercial hospitality operations including hotels and B&Bs and federally subsidized housing.
- (10) **Courier-Only License**: Delivers marijuana products to consumers at a residential address from licensed marijuana retailer and dispensaries for a fee. This is currently allowed for medical marijuana and adult use is now added. Warehousing is not permitted.

Both delivery license types will be exclusively available to Certified Economic Empowerment Priority Applicants (EEAs) and Social Equity Program (SEP) Participants for a minimum of three years, with the exclusivity period beginning once the first Marijuana Delivery operator commences operations.

6. **Locations for MEs.**

1. No MR shall be located within five hundred 500 feet of a parcel occupied by a pre-existing public or private school (existing at the time the applicant's license application was received by the CCC) providing education in kindergarten or any of the grades 1-12. The 500 feet setback shall be measured in a straight line from the geometric center of the MR entrance to the geometric center of the nearest school entrance unless there is an "impassable barrier" within those 500 feet, in which case the buffer zone distance is to be measured along the center of the shortest publicly accessible pedestrian travel path from the geometric center of the marijuana establishment entrance to the geometric center of the nearest school entrance. Impassable barrier is defined as a highway, public or private way or path, inaccessible structure, body of water, or other obstruction that renders any part of the 500 feet straight-line distance between a marijuana establishment entrance and a school entrance inaccessible by a pedestrian or automobile. In addition, no MR structure or associated security fence shall be located within 50 feet of the nearest property line of the adjacent properties.

2. Marijuana Cultivators shall have the following setbacks:

For Outdoor Cultivation:

Tier 1: 5 acres; 150 feet
 Tier 2: 6 acres; 200 feet
 Tier 3: 15 acres; 300 feet
 Tier 4: 25 acres; 400 feet
 Tier 5: 35 acres; 500 feet
 Tier 6 and above is prohibited for outdoor cultivation

For Indoor Cultivation:

Tier 1-2: 8 acres; 250 feet
 Tier 3 or above is prohibited for Indoor Cultivation

These setbacks shall be measured from the nearest property line of adjacent uses to all structures including building, greenhouses, temporary growing shelters, and security fences over [six] feet high of the MEs.

3. All other ME (other than MRs or Marijuana Cultivators) structures and security fences over [six] feet high shall have a setback of 100 feet from adjacent property lines.

5.7.6.4 No ME, except for Marijuana Transporter Delivery Operators or Couriers shall be permitted to operate from a moveable, mobile or transitory location and no ME shall provide drive-through services. Curb-side services due to COVID are permitted through 2021.

2. Designated Number of MRs.

5.7.7.1 The total number of MRs shall not exceed two, unless State law requires more due to an increase in the number of licenses in the Town for the retail sale of alcoholic beverages not consumed on the premises.

5.7.7.2 In the event that the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises decreases, any MR, if then exceeding the limits as noted in above may remain in operation.

5.7.7.3 Nothing herein will affect any licenses to operate an MR held at the time of adoption of these bylaws.

3. General Requirements of MEs.

The following general requirements are established for all proposed operations of ME's.

1. *Outside storage.* No outside storage of marijuana, marijuana products, related supplies, or educational materials is permitted, except for outdoor, open-air cultivation facilities.
2. *Hours of operation.* A MR may open no earlier than 8:00 AM and shall close no later than 9:00 PM the same day, Monday through Saturday, and from 10:00 AM until 8:00 PM on Sunday unless other hours of operation are set by the Planning Board. Hours of operation shall apply to all sales, delivery, and dispensing activities for the business. There shall be no hourly restrictions on non-retail MEs, unless imposed by the Planning Board.
3. *Signage.* All signage and advertising for ME's shall comply with all applicable state laws, as well as all other applicable provisions of Town regulations. Advertisements, signs, displays or other promotional material depicting retail marijuana uses or symbols shall not be shown or exhibited off the premises, or in any manner which is visible to the public from roadways, pedestrian sidewalks or walkways, or from other public areas. No signage associated with a MR shall use the word "marijuana," "cannabis," or any other word or phrase commonly understood to refer to marijuana, unless such word or phrase is immediately preceded by the word "retail," provided that no signage shall contain words such as "reefer," "ganja," "weed" or other similar slang references to marijuana or cannabis. No advertising signs shall be located within twenty feet of a public or private way and must be set back a minimum of twenty (20) feet from all property lines.
4. *On-site consumption of marijuana.* The use, consumption, ingestion or inhalation of marijuana or marijuana products on or within the premises of any ME is prohibited, except for a Research Facility.
5. *Visibility of activities.* All activities of any ME, except for outdoor, open-air cultivation facilities, shall be conducted indoors.

6. *Paraphernalia.* Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes, and vaporizers may lawfully be sold at a MR. However, no marijuana products or paraphernalia shall be displayed or kept in a retail marijuana store so as to be visible from outside the licensed premises.
7. *Control of emissions.* Sufficient measures and means adopted for preventing or reducing smoke, odors, debris, dust, fluids and other substances from exiting a ME. Best practices and state of the art technology shall be employed to achieve this objective.
8. *Design.* The proposed ME shall provide appropriate landscaping and design features to harmonize the proposed project with abutting uses so as to protect and enhance the aesthetics and architectural look and character of the surrounding neighborhood. This requirement may be modified or waived by the Planning Board.
9. *Lighting.* Energy efficient site lighting shall be maintained at a minimum lumen to ensure adequate visibility on the property to ensure public safety. Light standards shall comply with all CCC requirements and shall be shielded from abutting properties and shall incorporate full cut off fixtures to reduce light pollution. Best practices and state of the art technology shall be employed to achieve this objective.
10. *Parking and Loading Requirements.* On-site space for parking and loading must be adequate for maximum use of site by customers and employees.
11. *Driveways.* Driveways shall comply with all requirements of the Town, and safe access, egress, and traffic patterns must be shown.
12. *Noise.* Except for outdoor cultivation, no noise beyond ordinary traffic shall be detectable at the property line of the ME.
13. *MR Marketing.* MR's shall not be allowed to disseminate or offer to disseminate marijuana marketing materials to minors or suffer minors to view displays or be present on the premises. No coupons or other enticements for products unrelated to marijuana shall be distributed indoors or outdoors on the premises. No free samples may be provided by MR's to consumers. No sign or other outward evidence of the MR shall directly or indirectly refer to or imply any effects of the use of marijuana.

2. **Special Permit Required.**

No ME shall be established or expanded without first obtaining a Special Permit from the Planning Board in accordance with these bylaws.

1. A Special Permit shall only be valid for use by the Applicant and will become null and void upon the sale or transfer of the license of an ME or change in the location of the business or a change in control of the Applicant.
2. A Special Permit to operate a ME shall expire after a period of five calendar years from its date of issuance but shall be renewable for successive five-year periods thereafter, provided that a written request for such renewal is made to the Planning Board at least 60 calendar days prior to said expiration and that no objection to said renewal is made and sustained related to compliance with the conditions of the Special Permit as well as public safety factors applied at the time the Special Permit renewal is requested.
3. Upon submission of a complete application for any special permit under Section 5.7, the SPGA may choose an independent consultant, and the applicant shall provide its independent consultant with the full application for their analysis and review.

Applicant for any special permit under Section 5.7 shall grant permission for the town's independent consultant to conduct any necessary site visits. Access to the site shall be granted and shall not unreasonable be delayed.

The applicant shall pay the reasonable fees and expenses of the town's independent consultants.

2. Filing Requirements.

Applications for MEs shall include the following:

- 2.1. *Site Plan.* A site plan that includes all information required by Town regulations and must also include the following:
 - I. The names, mailing addresses, phone numbers, email addresses and signatures of the applicant, owners and operators.
 - II. Street address, and the map, lot and block number of the proposed site.
- 2.2. *Security Plan.* A security plan, to ensure the safety of employees, customers and the public to protect the premises from theft or criminal activity. The Police Chief shall offer comments to the Planning Board regarding the Security Plan. The security plan shall include, but not be limited to, the following:
 - I. An interior floor plan including secured areas, windows, doors, etc, if applicable
 - II. Exterior lighting and cameras
 - III. Exterior fencing if any
 - IV. Exterior gates if applicable
 - V. Alarms
- 2.3. *Site Control.* Evidence that the Applicant has site control and the right to use the site for an ME in the form of a deed, valid lease, or purchase & sale agreement or a notarized statement from the property owner certifying the Applicant has firm site control.

- 2.4. *Traffic Study.* A traffic study that includes an analysis of on-site circulation and parking demand to justify the number of proposed parking spaces and the optimum configuration for site ingress and egress.
- 2.5. *Wetlands.* A review and report by the Egremont Conservation Commission on the location and size in acres of wetlands on the site, if any.
- 2.6. *Signage.* Size and location of existing and proposed sign(s).
- 2.7. *Landscape Plan.* Proposed landscape features, including the location and a description of screening, fencing and plantings.
- 2.8. *Odor and Noise Control.* An odor and noise control plan.

5.7.11 Discontinuance of Use.

- 5.7.11.1 Any ME under this Section shall be required to remove all material, marijuana products, equipment, signs, and other paraphernalia in compliance with regulations established by the CCC prior to expiration of its license or immediately following revocation or voiding of its licensure and/or registration. If the license holder discontinues use, the ME shall immediately notify the Town officials.
- 5.7.11.2 Prior to acting under a Special Permit, the applicant shall post a bond to cover costs of the removal of the ME in the event the Town must remove the facility. The value of the bond shall be based upon the ability to completely remove all items and properly clean the facility at prevailing wages. The value of the bond shall be developed based upon the applicant providing the Planning Board with three (3) written bids to perform the required work. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the town to remove the facility at prevailing wage.

12. No Town Liability; Indemnification.

1. The Applicant and all licensees waive and release the Town, its elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the ME owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.
2. The Applicant, in receiving approvals issued pursuant to this chapter, and all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the Town, its elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the ME that is the subject of the approval/license.

2. Other Laws; Host Community Agreement.

1. At all times while a permit is in effect the licensee shall possess a valid business license as required by the Town.
2. To the extent that the state has adopted or adopts in the future any additional or stricter law or regulation governing the cultivation, manufacturing, testing, research, transportation or retail of marijuana or Marijuana Products, the additional or stricter regulation shall control the ME in the Town. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.
3. Any ME may be required to demonstrate, upon demand by law enforcement officers of the Town Police Department or the Planning Board, that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.
4. The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.
5. Prior to the issuance of a Special Permit, the ME must have entered into a host community agreement with the Town. If, upon review by the Board of Selectmen, the ME is found to not be fully in compliance with the host community agreement, the Special Permit may be suspended or rescinded.

5.7.14 Findings

In addition to the standard findings for a Special Permit, the Planning Board must also find all the following:

1. The ME is consistent with and does not derogate from the purposes and intent of these bylaws.
2. That the ME facility is designed to minimize any adverse visual, environmental or economic impacts on abutters and the Town.

3. That the ME facility demonstrates that it meets or exceeds all the permitting, including the CCC, requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.
4. That the Applicant has satisfied all of the conditions and requirements of this Bylaw.
5. That the ME facility provides adequate security measures to ensure that no participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured on-site or via delivery.
6. That the ME facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

15. **Enforcement and Violations**

- 15.1. The special permit holder shall provide to the Building Inspector and Chief of Police the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the special permit holder.
- 15.2. The special permit holder shall file a copy of any Incident Report required under ____ CMR ____ with the Chief of Police, Building Inspector and the Planning Board within 24 hours of creation of such report. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
- 15.3. Any violation of the requirements for operation of our ME in these Bylaws or related CCC regulations will be corrected expeditiously in cooperation with relevant Town official. If the agreed upon corrective measures are not adopted promptly, all operations of the ME shall be suspended until the violation is corrected.
- 15.4. Any violation of these bylaws or MGL Chapter ____ Section ____ and with ____ CMR ____ shall be grounds for revocation or non-renewal of a special permit issued under this section.